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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

Plaintiff,

No. C 10-03561 WHA

v.

GOOGLE INC.,

Defendant.

**REQUEST FOR FURTHER  
PHASE ONE BRIEFING RE  
COPYRIGHTABILITY OF SSO**

On **MAY 10, 2012, AT NOON**, both sides may file memoranda to add any legal argument they wish on the issue of SSO copyrightability beyond what they have said in their voluminous proposed findings and conclusions of law, each limited to twenty pages. Replies limited to ten pages may be filed by **NOON ON MAY 14**. All evidence relied on *must* be in the trial record and received in evidence.

In those briefs, please address the following:

1. If the Copyright Act is meant to protect expression but not vocabulary, should the vocabulary and grammar of a computer language be copyrightable, as distinct from programs written in the language? In this regard, please comment on the May 2, 2012, decision of the High Court of the European Union.

1           2.     If each API method is a program — pre-packaged but nonetheless  
2           a program — did Google copy anything more than the name and the declaration  
3           (substituting its own implementation)?

4           3.     If the format of the name is dictated by the Java programming  
5           rules, then is the form of “java.package.class.method” required by the syntax of  
6           the language itself?

7           4.     Could Google have come up with different names and SSO yet still  
8           have provided the same functionality as in Android? Android users would have  
9           had to learn a new vocabulary and a new outline but the methods would all still  
10          have been resident in such a modified Android. True? Is this what the UK  
11          company Spring did?

12          5.     Is the input-output (*i.e.*, argument and return) scheme of a method  
13          copyrightable? For example, can someone copyright the function of inputting  
14          an angle and outputting the cosine of that angle? If someone has a copyright  
15          on a particular program to find cosines, does that copyright cover all other  
16          implementations that perform the identical function (input = angle,  
17          output = cosine)?

18          6.     Is it agreed that the following is true, at least as of 1996?  
19           The following were the core Java Application  
20           Programming Interface: java.lang, java.util and  
          java.io.

21          7.     Does the Java programming language refer to or require any  
22          method, class or package outside the above three?

23          8.     To what extent do subparts of the above three Java packages refer  
24          to any other Java packages or subpart of other packages (meaning outside the  
25          three)? To the extent this occurs, should those outside subparts be deemed to be  
26          “core” to the programming language?

1                   9.        What cross-method, cross-class interdependencies exist at the  
2 implementation level in Java? Were any of these duplicated in the Android  
3 implementations? (The judge remembers no evidence on this point.)

4                   10.      In Java, what interdependencies exist at the name/declaration level  
5 other than the inherited characteristics from the super class, interfaces, same class,  
6 etc.? Please explain.

7                   11.      With respect to the Seventh Circuit decision in *American Dental*  
8 *Association*:

9                   (A)     To what extent has it been adopted in the  
10 Ninth Circuit?

11                   (B)     If the taxonomy in that decision was protectable,  
12 why shouldn't Sun's hierarchical outline of packages, classes,  
13 methods for the 37 API packages be protectable (other than  
14 perhaps the three core packages?)

15                   (C)     Did *ADA* hold that the numbering system alone  
16 (apart from the description) was copyrightable?

17                   12.      With respect to the Ninth Circuit's decision in *Kapes*:

18                   (A)     *Kapes* stated "Whether CDN's selection and  
19 arrangement of the price lists is sufficiently original to merit  
20 protection is not at issue." 197 F.3d at 1256. If that was not issue,  
21 what, if anything, did *Kapes* expressly say about SSO?

22                   (B)     In what sense were the "prices CDN creates" in  
23 *Kapes* a "compilation" within the meaning of the Copyright Act  
24 (see 197 F.3d at 1260, second col.).

25                   (C)     Didn't *Kapes* treat the coin prices as  
26 "compilations"? Please explain how this was done. Has Oracle  
27 abandoned the compilation argument herein?

1 (D) Was originally the only issue decided in *Kapes*?

2 13. When discussing use of the SSO in the 37 API packages in  
3 Android to achieve “compatibility,” what exactly are the parties referring to? Is it  
4 “compatibility” with programmers who write in the Java programming language?  
5 Or compatibility with pre-existing programs? If so, approximately what percent  
6 of pre-existing programs written for the Java platform are compatible with  
7 Android? Is it compatibility with the TCK? Or Java virtual machine? Or java  
8 compiler?

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10 **IT IS SO ORDERED.**

11  
12 Dated: May 3, 2012.

13   
14 WILLIAM ALSUP  
15 UNITED STATES DISTRICT JUDGE  
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